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UNITED STATES GENERAL ACCOUNTING OFFICE
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NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION

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JUNE 7, 1984

124432

The Honorable John B. Breaux
House of Representatives

Dear Mr. Breaux:

Subject: Peruvian Rice Purchases Guaranteed by the Commodity Credit Corporation (GAO/NSIAD-84-116)

This report responds to your September 30, 1983, letter requesting that GAO investigate rice purchases made by Peru in September 1983 under a U.S. government guaranteed export credit.

Your letter referred to a Peruvian purchase of 50,746 metric tons (mt) of medium grain rice purchased under a $25 million credit guarantee made available by the Department of Agriculture's Commodity Credit Corporation under its GSM-102 Export Credit Guarantee Program. Documents were included with the letter indicating that Peru passed over lower cost bids for Southern rice and paid about a $363,145 premium for 29,746 metric tons (mt) of California rice. You expressed the view that

> "The U.S. government should be sure that its export promotion programs are used to the maximum advantage of those to whom the assistance is made available," and that "Foreign buyers should take advantage of the export assistance by buying the largest amount of grain possible with the U.S. assistance made available . . ."

To accomplish that objective, in our meeting on this subject, you indicated that you are considering proposing a legislative amendment that importers under the GSM-102 program comply with the same types of open competitive bidding procedures that are required under the Public Law 480, Title I concessional sales program.

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Our review of Peru's rice purchases focused on (1) whether Peru did, in fact, pass up lower responsive bids and the amount of any premium paid, (2) why Peru did so, and (3) what the legislation for the GSM-102 program and Agriculture's implementing regulations require of recipient countries and Agriculture under the GSM-102 program.

Since both the tender and the awards were transacted in Lima, Peru, by the Empresa Comercializadora del Arroz, S.A. (ECA, S.A.), an agency of the Peruvian government, we asked the Department of State to have American embassy officials in Lima interview ECA, S.A. officials and obtain supporting documents regarding these purchases. We analyzed the sales statistics contained in your letter and compared them with Agriculture's records and the information obtained by the embassy. We interviewed the apparent low bidder in New York as to his views on these purchases and obtained further information on the public tender and awards. Finally, we reviewed the underlying legislation and Agriculture's implementing regulations for the GSM-102 program and interviewed officials of Agriculture's Foreign Agricultural Service concerning their policies and administration of the program.

THE TENDER, BIDS AND AWARDS

On August 1, 1983, Agriculture announced to U.S. exporters that it had approved a $25 million credit guarantee for Peru to purchase U.S. rice. U.S. banks finance the sale of the commodities under the program, but the exporters pay Agriculture a fee to guarantee payment in the event the importer defaults. The importer has up to 3 years to pay for the commodities.

On September 20, 1983, ECA, S.A. issued a public tender inviting bids for rice. The tender specified both medium and long grain rice, all of it to be grade #3 but well milled[1] and with 15 percent broken grains (#3-15s), for delivery during October 15 to 30 and November 1 to 30, 1983.

The bids were evaluated on September 23 and awards announced on September 28, 1983. Agriculture's records show that, except for very minor differences in the tonnage actually shipped, the awards, as set forth on the next page, are the same as those shown in the attachments to your September 30, 1983 letter.

[1]USDA's standards only require grade #3 rice to be "reasonably" well milled.

Contract delivery dates	Delivery point (FOB)	Exporter	Amount shipped (metric	Price ton)
Medium grain				
11/01-11/30/83	Gulf	NOGA Commodities	20,999	$334.77
11/01-11/30/83	California	Balfour Maclaine	20,000	346.30
11/01-11/30/83	California	Continental Grain	9,746	348.37
Long grain				
10/15-10/30/83	Gulf	Continental Grain	9,497	$400.38
10/15-10/30/83	Gulf	NOGA Commodities	9,500	404.73

According to your letter, ECA, S.A. passed over two other lots of medium grain Southern rice offered by NOGA and instead purchased the equivalent tonnage of California rice from two other exporters for $363,145.60 more than the cost of the equivalent tonnage of Southern rice.

Information and documents concerning the successful bids supplied by ECA, S.A. to the American Embassy confirm that NOGA did offer two other lower priced lots that were passed over, as follows.

20,000 mt @$336.77 mt FOB for October 15-30 delivery
10,000 mt @$334.77 mt FOB for November 1-30 delivery

In addition, documents we obtained indicate that a number of bids from other firms were rejected as non-responsive because the suppliers failed either to submit a bid bond or to provide ECA, S.A., in advance, samples of the rice they would be furnishing. Sources indicated to us that inclusion of the sample requirement was of questionable value, since commodity suppliers may not have the precise grade or quality of commodity bid in inventory at the time they submit their bids. Also, by way of comparison, we have not observed this type of requirement in Public Law 480, Title I tenders, which are financed by the U.S. government. Nevertheless, the tender document did require that bids not accompanied by rice samples be rejected, and in rejecting such bids as non-responsive it is possible that ECA, S.A. passed up bids even lower than NOGA's.

HOW MUCH COULD PERU HAVE SAVED?

Although ECA, S.A. requested bids on 38,000 mt of rice for delivery during the last half of October 1983 and another 30,000 mt for delivery during November, it purchased only 18,997 mt for October delivery (all long grain rice), and some 50,746 mt of medium grain rice for November delivery. It is not clear why the delivery schedule was altered, but other factors, such as the availability of Peruvian ships,[2] may have been involved. Therefore, if an analysis is made using strictly comparable delivery periods, i.e., November delivery only, the increased cost to ECA, S.A. is attributable to the substitution of Continental Grain's bid of 9,746 mt at $348.37 mt for NOGA's bid of 10,000 mt at $334.77.

Continental sales price	$348.37 mt
less NOGA bid price	334.77 mt
Premium per mt	$ 13.60
Tonnage purchased	x9,746
Total premium	$132,545.60

Had ECA, S.A. decided to purchase medium grain rice for October delivery, as the tender indicated, then it could have achieved a substantial additional savings by purchasing the 20,000 mt offered by NOGA instead of the 20,000 mt purchased from Balfour Maclaine for November delivery.

Balfour sales price	$346.30 mt
less NOGA bid price	336.77 mt
Premium per mt	$ 9.53
Tonnage purchased	x20,000
Total potential savings	$190,600

In summary, our analyses show that ECA, S.A. paid a $132,545.60 premium for 9,746 mt of medium grain rice purchased from Continental Grain for November delivery and that ECA, S.A. could have saved another $190,600 by purchasing 20,000 mt for October delivery instead of for November. The total commodity savings could have been $323,145.60 compared to the $363,145.60 cited in your letter and attachments. In addition, statistics on ocean freight costs provided by ECA, S.A. indicate that ECA, S.A. paid $24.74 mt for ocean freight from the West Coast to Peru for the above two lots, compared with $23.00 mt offered by NOGA for shipment from the Gulf. Therefore, by purchasing the two additional lots from NOGA (29,746 mt) it could have saved approximately $51,758.04 on ocean freight costs, for a total potential savings of about $374,903.64.

WHY DID ECA, S.A. PASS UP POTENTIAL SAVINGS?

We asked the American embassy in Peru to try to obtain the answer to this question. Cable responses indicate that embassy officials discussed this subject with at least two ECA, S.A. officials. The cables generally indicate that ECA, S.A. decided

[2]We were informed that Peruvian law requires that Peruvian registered or controlled vessels be accorded first right of refusal on government cargoes.

to split the purchases among several suppliers because it felt service was deficient on a purchase from NOGA several years earlier. The cables noted that ECA, S.A. reportedly sued NOGA to resolve the problem. One of the cables further indicated that ECA, S.A. also may have been influenced by a desire to achieve supply security by spreading the purchases among several suppliers. In our discussions with NOGA, an official told us that, through an intermediary, he was also given the same two reasons.

Additional information provided by our embassy further indicates that ECA, S.A. is reselling the California rice at the same subsidized price as the Southern rice. Therefore, it is not recouping the extra costs of the California rice.

Based on the information available to us, ECA, S.A's decision to pay higher prices for the California rice appears to be based on those reasons stated above--namely, its desire to split the sales either because of its attitude towards NOGA and/or because of its desire to achieve supply security.

WHAT THE LEGISLATION AND AGRICULTURE REGULATIONS REQUIRE

The GSM-102 program is administered by Agriculture's Office of the General Sales Manager, Foreign Agricultural Service. However, it is not administered under any specific underlying program legislation. Rather, authority for conducting the program derives from section 5(f) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. §714c(f)) which provides only that the Commodity Credit Corporation may "export or cause to be exported, or aid in the development of foreign markets for agricultural commodities." As a consequence, there is not the degree of legislated program controls over GSM-102, for example, that exists in the case of the Public Law 480, Title I concessional sales program. As noted earlier, that legislation requires that all purchases must be made under open, public, competitive bid procedures, with bid opening held in the United States. In the case of GSM-102, however, regulations developed and issued by Agriculture set the primary criteria and controls for administering the program.

We reviewed Agriculture's regulations for the GSM-102 program (7 C.F.R. Pt. 1493), and noted that they impose no requirement as to the types of purchasing terms and conditions the buying country may employ. Similarly, although those regulations provide that Agriculture may have access to the successful U.S. exporters' records for a period of 3 years, they do not provide for access to the importers' records. The only public statements we could find regarding the general subject of purchasing procedures under GSM-102 are contained in Agriculture's promotional materials for the program. For example, an information brochure for the program basically states that GSM-102 purchases are treated as commercial sales and that buying countries may follow their normal commercial procedures and may either negotiate with a supplier(s) or, alternatively, may purchase under public tenders. This, of course, allows the purchaser considerable flexibility in conducting GSM-102 purchases and is in keeping with the concept that these are basically commercial purchases except that the U.S. government guarantees repayment to banks which extend the purchase loans.

In discussing their administration of the program, Agriculture officials stated that the program is considered a commercial sales program and that the regulations do not require competitive bidding nor acceptance of the lowest priced offers.[3] Officials of the Foreign Agricultural Service stated that although they would like to see importing countries purchase the maximum tonnage possible with their GSM-102 credits, importers are under no obligation to do so. They noted that since importers are sometimes private or quasi-private entities and that they must in any event repay the amount borrowed to commercial banks within 3 years, the importers should be able to select whatever quality or commodity specification they choose. The officials further stated that their primary focus in administering the program is to ensure that the country uses the credit, that the guarantee fees are received, and that shipments of the commodities from the United States are verified and that they do not normally become involved with the country's purchasing process.

Conversely, making the GSM-102 program subject to the same type of regulations as the Public Law 480 program will not necessarily eliminate the type of situation that occurred in Peru. Purchases by countries under the Public Law 480 concessional sales program are subject to competitive bidding procedures. However, our own recent audit of that program has shown that in a number of instances, some countries purchased commodities with either premium specifications or paid large premiums for small differences in delivery timeframes. Enclosed for your information is a copy of our report[4] to the Secretary of Agriculture on

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[3]Peru's tender in this case required that, in awarding the contract, all aspects of each offer (not just price) as well as the commercial record of each bidder be taken into account.

[4]Opportunities for Greater Cost Effectiveness in Public Law 480, Title I Food Purchases (GAO/NSIAD-84-69, Apr. 19, 1984).

that audit. Additionally, since importers under GSM-102 may be private and not directly government-related entities, you may wish to obtain Agriculture's views on whether instituting tighter controls, along the lines of the Public Law 480, Title I program, may result in reluctance by some importers to subject themselves to such controls and thereby affect U.S. export levels. For example, some private importers may find it unattractive or unprofitable to hold bid openings in the United States.

In view of the informational and non-critical nature of this report, we did not follow our normal policy of obtaining formal written comments from Agriculture. However, Foreign Agricultural Service officials did review the report and had no comments.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 3 days from the date it is issued. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Bill W. Thurman

for Frank C. Conahan
Director

Enclosure